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General and CBS Lawyer Clash on Enemy Data

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Gen. William C. Westmoreland accused a lawyer for CBS of not knowing what he was doing yesterday when the lawyer suggested that the general had supplied President Johnson with misleading comparisons of enemy strength in Vietnam between 1966 and 1967.

The flare-up — with both the general and the lawyer, David Boies, waving aloft a chart of statistics provided the President in November 1967 — erupted at the end of a day of relatively quiet cross-examination in Federal District Court in Manhattan.

"I understand this chart, which apparently you don't," General Westmoreland told Mr. Boies caustically. "I don't know how to say it, Mr. Boies, but you don't know what you're doing."

Mr. Boies retorted that his understanding of the data was the same as that explained at the start of the Westmoreland-CBS libel trial eight weeks ago by Walt W. Rostow, Mr. Johnson's special assistant for national security affairs.

"So, what you're saying," Mr. Boies added, "is that both Dr. Rostow and I don't understand the chart?"

A. Well, certainly you don't. He does now.

Q. Have you talked to him since he testified?

A. No, but I was told somebody had and he now understands it.

Westmoreland Took Stand Nov. 15

General Westmoreland, who commanded American forces in Vietnam from January 1964 to June 1968, is suing CBS for \$120 million over a 1982 CBS Reports documentary titled "The Uncounted Enemy: A Vietnam Deception." Yesterday, the 70-year-old retired general referred to it as the "so-called documentary."

General Westmoreland maintains that the broadcast defamed him by saying he had deceived the President

and the Joint Chiefs of Staff about the size and nature of the enemy in South Vietnam in the year preceding the Tet offensive of January 1968.

As part of an effort to minimize the size of the enemy, to make it appear that America was winning the war, the documentary said, General Westmoreland adopted the "tactic" of removing the Vietcong's self-defense forces from the official military listing of enemy strength known as the order of battle.

General Westmoreland took the stand Nov. 15 as the 14th witness in the trial, presided over by Judge Pierre N. Leval. His cross-examination will continue this morning, when Mr. Boies is expected to renew his questions about the data supplied President Johnson in late November 1967.

Enemy Strength Figures Read

The exchange yesterday began when Mr. Boies read to the jury a series of enemy strength figures from an August 1966 intelligence report prepared by General Westmoreland's command in Saigon.

The figures showed 111,764 combat forces, 18,753 combat support forces, 39,175 political cadre and 112,760 militia, for a total of 282,452. Included in the 112,760 militia figure, according to prior testimony, were about 70,000 Vietcong part-time, hamlet-based self-defense forces.

Then, Mr. Boies showed General Westmoreland a one-page bar chart of enemy strength data that he and Ellsworth Bunker, the United States Ambassador in Saigon, had provided Mr. Rostow and the President during a briefing in Washington in November 1967.

The chart listed total VC/NVA — Viet Cong/North Vietnamese Army — strength at 207,000 in the third quarter of 1965, 285,000 in the third quarter of 1966 and 242,000 in the third quarter of 1967.

Underneath the chart was a notation

that "figures do not include" political cadre that were now estimated at 80,000.

When Mr. Rostow first showed this and related charts on the enemy to Mr. Johnson, he wrote a memorandum saying that they "reflect the best data available at this time to our field commanders on the movement of the war" between late 1965 and late 1967.

"The evidence of progress these statistics demonstrate," Mr. Rostow went on, "is confirmed by captured documents, prisoner interrogations, estimates of field commanders and other sources."

Yesterday, Mr. Boies asked General Westmoreland whether he agreed with that assessment, and the witness said he did.

'President Aware of That'

When Mr. Rostow testified on Oct. 16 as General Westmoreland's first witness, with the general looking on, the former White House aide said the figure of 242,000 for the third quarter of 1967 — unlike the figures for 1965 and 1966 — excluded the Vietcong's self-defense forces "and the President was well aware of that."

But, in General Westmoreland's direct testimony more than a week ago, the general said none of the three figures on the chart — for 1965, 1966 and 1967 — included the self-defense forces.

Yesterday, Mr. Boies asked the general about that statement. Mr. Boies apparently expected to catch the witness in a discrepancy and to show, on the basis of Mr. Rostow's testimony, that General Westmoreland had achieved a decline in enemy strength from 285,000 to 242,000 between 1966 and 1967 only by giving the President a series of figures that were not comparable.

Instead, General Westmoreland surprised Mr. Boies by saying that all three figures on the chart excluded the self-defense forces.

"Are you saying that that 285,000 figure excludes the self-defense forces?" Mr. Boies asked incredulously.

"It does," the general said. "Mr. Rostow made an inaccurate statement. He didn't understand the chart."

When General Westmoreland complained that he wasn't being given an opportunity to explain, Judge Leval interceded.

The witness then said that, because the self-defense forces had been dropped from the order of battle as of October 1967, his intelligence chief, Maj. Gen. Phillip B. Davidson Jr., had made a "retrospective adjustment" to all the figures on the chart. And the analysis, he said, had been approved by the Defense Intelligence Agency, the intelligence arm of the Joint Chiefs of Staff.

Q. Did General Davidson tell you he had done that?

A. He didn't have to tell me. I knew it.

Q. You didn't do it, sir, so how did you know it?

A. We were briefed on the chart before we went to Washington. The Ambassador himself — he understood what this was all about.

Well, Mr. Boies asked, how come the figure of 282,452 in the intelligence report in 1966 was so close to the figure of 285,000 if the former included the self-defense forces and the latter did not?

A. It was strictly coincidental.

Q. Strictly coincidental?

A. Strictly coincidental.